

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Tony Hammond, Vice Chairman;
Mark Acton;
Ruth Y. Goldway; and
Nanci E. Langley

Competitive Product Prices
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2014-78

ORDER APPROVING MODIFICATION TO
GLOBAL EXPEDITED PACKAGE SERVICES 3
NEGOTIATED SERVICE AGREEMENT

(Issued May 27, 2015)

I. INTRODUCTION

The Postal Service seeks to modify a Global Expedited Package Services 3 negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Modification.

¹ Notice of the United States Postal Service of Filing Modification to Global Expedited Package Services 3 Negotiated Service Agreement, May 12, 2015 (Notice). The Modification is an attachment to the Notice (Modification).

In Order No. 2194, the Commission approved the Global Expedited Package Services 3 negotiated service agreement (Existing Agreement).² On May 12, 2015, the Postal Service filed notice that it has agreed to the Modification to the Existing Agreement. On May 13, 2015, the Commission issued an order reopening this docket to consider the Modification, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Modification to become effective on June 1, 2015. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.* The Postal Service asserts that the Modification will not impair the ability of the contract to comply with 39 U.S.C. § 3633. Notice, Attachment 2.

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Modification, the Existing Agreement, and the revised financial workpapers filed under seal. *Id.* at 2. Based on that review, he concludes that the Existing Agreement, as modified, should continue to generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

The Public Representative notes that the Postal Service did not address whether the Existing Agreement, as modified, continues to be functionally equivalent to the baseline agreement for the GEPS 3 product.⁵ However, the Public Representative states that, based on his review of the revised financial workpapers, the Modification

² See Order Approving Additional Global Expedited Package Services 3 Negotiated Service Agreement, September 23, 2014 (Order No. 2194).

³ Order No. 2482, Notice and Order Concerning Modification to a Global Expedited Package Services 3 Negotiated Service Agreement, May 13, 2015.

⁴ Public Representative Comments on Postal Service Notice Concerning Modification to a Global Expedited Package Services 3 Negotiated Service Agreement, May 20, 2015 (PR Comments).

⁵ *Id.*; see also Docket Nos. MC2010-28 and CP2010-71, Order No. 503, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, July 29, 2010.

does not change the cost or market characteristics of the Existing Agreement, it therefore remains functionally equivalent to the baseline agreement. PR Comments at 1-2.

In addition, the Public Representative indicates that the price changes in Annex 1 reflect new pricing for some mail tendered via dropship at the Postal Service's International Service Centers (ISC). *Id.* at 2. He notes that the Postal Service did not explain the introduction of new ISC presort dropship prices and urges the Commission to inquire into the nature of the new prices. *Id.* at 2-3.

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Functional equivalence. The Commission concurs with the Public Representative and concludes that the Existing Agreement, as modified, exhibits cost and market characteristics that are similar to the baseline agreement. The Commission therefore finds the Existing Agreement, as modified, continues to be functionally equivalent to the baseline agreement for the GEPS 3 product.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Modification updates the customer's mailing and contact information, revises choice of payment method, adds an additional Paragraph 3 to both Article 5 and Article 6, and replaces Annex 1, which contains new rates. Notice at 1; *Id.* Attachment 1.

Based on a review of the record, the Commission finds that the Existing Agreement, as modified, should cover its attributable costs. Consequently, the Commission finds that the Modification should allow the Global Expedited Package Services 3 product to continue to comply with 39 U.S.C. § 3633(a)(2). For this reason, the Commission finds that the Modification should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Modification is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Modification indicates it is consistent with section 3633(a). The Commission will review the cost coverage of the Existing Agreement, as modified, the cost coverage of the Global Expedited Package Services 3 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

While the Commission appreciates the Public Representative's suggestion concerning the new ISC presort dropship prices, the Existing Agreement, as amended, continues to cover costs despite how portions of the mail volume will now be tendered. As the change regarding the new ISC presort dropship prices will not impact the Commission's preliminary statutory review in this docket, the Commission finds no additional detail regarding these prices is necessary.

Other considerations. The Postal Service states that the Modification shall become effective on June 1, 2015, and does not alter the expiration date of the Existing Agreement. Notice at 1. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Modification.

If the Existing Agreement, as modified, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as modified.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Global Expedited Package Services 3 negotiated service agreement, as modified.
2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Modification.
3. The Postal Service shall notify the Commission if the Existing Agreement, as modified, terminates prior to the scheduled expiration date.

By the Commission.

Shoshana M. Grove
Secretary